

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1138 be amended to read as follows:

- 1 Page 4, between lines 39 and 40, begin a new paragraph and insert:
- 2 "SECTION 5. IC 14-32-1-1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The following are
- 4 declared as a matter of legislative determination:
- 5 (1) That the land and water resources of Indiana are among the
- 6 basic assets of Indiana and that the proper management of these
- 7 resources is necessary to protect and promote the health, safety,
- 8 and general welfare of the people of Indiana.
- 9 (2) That improper land use practices and failure to control and
- 10 use rainfall and runoff water cause and contribute to deterioration
- 11 and waste of these resources of Indiana.
- 12 (3) That the breaking of natural grass, plant, and forest cover has
- 13 interfered with the natural factors of soil stabilization, causing
- 14 loosening of soil and exhaustion of humus and developing a soil
- 15 condition that favors excessive runoff and erosion, with the
- 16 following results:
- 17 (A) The topsoil is being blown and washed out of the fields
- 18 and pastures.
- 19 (B) There has been an accelerated washing of sloping fields.
- 20 (C) These processes of erosion by wind and water speed up
- 21 with removal of the topsoil, exposing the less absorptive,
- 22 less protective, less productive, and more erosive subsoil.
- 23 (4) That valuable water resources are being lost causing damages
- 24 in watersheds.
- 25 (5) That failure by a land occupier to properly manage the soil
- 26 and water causes a washing and blowing of these resources onto
- 27 other land and makes the conservation of these resources on the
- 28 other land more difficult.
- 29 (6) That the consequences of soil erosion and failure to control
- 30 and use rainfall and runoff water are the following:
- 31 (A) The silting and sedimentation of stream channels,

- 1 reservoirs, dams, ditches, and harbors.
- 2 (B) The loss of fertile soil material.
- 3 (C) The piling up of soil on lower slopes and the deposit
- 4 over alluvial plains.
- 5 (D) The reduction in productivity or outright ruin of bottom
- 6 land by flooding and overwash of poor subsoil material,
- 7 sand, and gravel swept out of the hills.
- 8 (E) The deterioration of soil and the soil's fertility,
- 9 deterioration of crops grown, and reduction in crop yields.
- 10 (F) The loss of soil and water that causes destruction of food
- 11 and cover for wildlife.
- 12 (G) A blowing and washing of soil into streams and lakes
- 13 that silts over spawning beds and destroys water plants,
- 14 diminishing the food supply of fish.
- 15 (H) A diminishing of the underground water reserve and loss
- 16 of surplus rainfall runoff causing water shortages,
- 17 intensifying periods of drought, and causing crop failures.
- 18 (I) An increase in the speed and volume of rainfall runoff,
- 19 causing severe and increasing floods.
- 20 (J) Economic hardship for those attempting to farm land that
- 21 is eroded or subject to frequent flooding.
- 22 (K) Damage to roads, highways, railways, farm buildings,
- 23 and other property from floods and from dust storms.
- 24 (L) Losses in navigation, hydroelectric power, municipal
- 25 water supply, recreational water development, irrigation
- 26 developments, farming, and grazing.
- 27 (7) That to conserve soil and water resources, control and prevent
- 28 soil erosion, **protect water quality**, reduce flood damage, and
- 29 further the conservation development, use, and disposal of water,
- 30 it is necessary that:
- 31 (A) land use practices contributing to soil and water
- 32 wastage, **water quality impairment**, and soil erosion be
- 33 discouraged and discontinued; and
- 34 (B) appropriate soil and water conserving land use practices
- 35 and works of improvement for flood prevention or the
- 36 conservation development, use, and disposal of water be
- 37 adopted and carried out.
- 38 (8) That among the procedures necessary for widespread
- 39 adoption are the following:
- 40 (A) Carrying on of engineering operations such as the
- 41 construction of flood preventing reservoirs and channels,
- 42 terraces, terrace outlets, check dams, dikes, ponds, ditches,
- 43 and similar operations.
- 44 (B) The use of soil protecting agronomic practices, such as
- 45 strip cropping, contour cropping, and conservation tillage.
- 46 (C) Land irrigation.
- 47 (D) Seeding and planting of sloping, abandoned, or eroded
- 48 land to water-conserving and erosion-preventing plants,
- 49 trees, and grasses.
- 50 (E) Forestation and reforestation.

(F) Rotation of crops.

(G) Soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops.

(H) Retardation of runoff by impounding the runoff water behind structures, by increasing the absorption of rainfall, and by retiring from cultivation all steep, highly erosive areas and areas already badly eroded.

(I) The use of water quality protection practices, including nutrient and pesticide management on all lands.

SECTION 6. IC 14-32-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. In light of the determination set forth in section 1 of this chapter, it is the policy of the general assembly to provide for the proper management of soil and water resources, the control and prevention of soil erosion, the prevention of flood water and sediment damage, **the prevention of water quality impairment**, and the conservation development, use, and disposal of water in the watersheds of Indiana to accomplish the following:

(1) Conserve the natural resources, including wildlife.

(2) Control floods.

(3) Prevent impairment of dams and reservoirs.

(4) Assist in maintaining the navigability of rivers and harbors.

(5) Protect the water quality of lakes and streams.

(6) Protect the tax base.

(7) Protect public land.

(8) Protect and promote the health, safety, and general welfare of the people of Indiana.

(9) Protect a high quality water resource.

SECTION 7. IC 14-32-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The soil conservation board is established within the department **of agriculture established by IC 15-9-2-1 as the policy making body for soil and water conservation.**

SECTION 8. IC 14-32-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The board consists of the following ~~nine (9)~~ **seven (7)** members:

(1) Four (4) members who must be land occupiers with farming interests, appointed by the governor.

(2) ~~Two (2)~~ **Three (3)** members who must be land occupiers with nonfarming interests, appointed by the governor.

~~(3) Three (3) ex officio members as follows:~~

~~(A) The director or the director's designee.~~

~~(B) The director of the department of agriculture or the director's designee.~~

~~(C) The director of the Purdue University cooperative extension service or the director's designee.~~

SECTION 9. IC 14-32-2-3 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A majority of the
 2 ~~six (6)~~ **seven (7)** appointed members of the board must have experience
 3 as district supervisors.

4 (b) In making appointments to the board, the governor may invite
 5 and consider the recommendations of the following:

- 6 (1) The Purdue University cooperative extension service.
- 7 (2) The department of **agriculture**.
- 8 (3) The Indiana Association of Soil and Water Conservation
 9 Districts.

10 (c) All appointments to the board shall be made without regard to
 11 political affiliation.

12 (d) The members appointed to the board under section 2(1) and
 13 2(2) of this chapter must be residents of at least four (4) different
 14 geographic regions of Indiana.

15 SECTION 10. IC 14-32-2-4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. ~~(a)~~ The term of an
 17 appointed member of the board is four (4) years. An appointed member
 18 shall serve until a successor is appointed and has qualified. The terms
 19 shall be staggered so that **at least** three (3) members are appointed
 20 every two (2) years.

21 ~~(b) The terms of the three (3) ex officio members of the board are~~
 22 ~~coterminous with the governor's term of office.~~

23 SECTION 11. IC 14-32-2-7 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. **(a)** The governor
 25 may appoint advisory members from other **organizations that**
 26 **promote conservation, including local**, state, and federal agencies
 27 upon the recommendation of the board.

28 **(b) The governor shall appoint members to the advisory board**
 29 **that represent the following:**

- 30 **(1) The department of agriculture.**
- 31 **(2) The department of natural resources.**
- 32 **(3) The department of environmental management.**
- 33 **(4) The Purdue University cooperative extension service.**
- 34 **(5) The Indiana Association of Soil and Water Conservation**
 35 **Districts.**
- 36 **(6) The Farm Service Agency of the United States**
 37 **Department of Agriculture.**
- 38 **(7) The Natural Resources Conservation Service of the**
 39 **United States Department of Agriculture.**

40 SECTION 12. IC 14-32-2-12 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. The board shall do
 42 the following:

- 43 (1) Provide for the execution of surety bonds for all board
 44 employees and officers who are entrusted with money or
 45 property.
- 46 (2) Provide for the keeping of a full and accurate record of all
 47 board proceedings and of all resolutions and rules the board
 48 issues or adopts. The accounts of receipts and disbursements are

subject to examination by the state board of accounts.

(3) Offer appropriate assistance to the supervisors of soil and water conservation districts to carry out district powers and programs.

(4) Keep the supervisors of districts informed of the activities and experience of all other districts and facilitate cooperation and an interchange of advice and experience among districts.

(5) Coordinate the programs of the districts as far as this may be done by advice and consultation.

(6) Secure the cooperation and assistance of the United States and state agencies in the work of the districts. However, this subdivision does not authorize either of the following:

(A) The transfer or control of authority over districts to a federal agency.

(B) The transfer of title of land or control to the United States.

(7) Disseminate information throughout Indiana concerning the activities and programs of the districts and encourage the formation of districts in areas where organization is desirable.

(8) Coordinate the erosion and sediment part of 33 U.S.C. 1288 (Public Law 92-500, Section 208) and other erosion and sediment reduction programs that affect water quality, in cooperation with state and federal agencies and through districts as provided under IC 14-32-5-1.

(9) Develop a statewide regulatory program to be initiated after all reasonable voluntary approaches to erosion and sediment reduction have been exhausted.

(10) Conduct an inventory of conservation needs for planning purposes and to inform the general assembly.

(11) Hold meetings in locations throughout Indiana.

~~(10)~~ **(12)** Adopt rules under IC 4-22-2 to implement this article.

SECTION 13. IC 14-32-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The governing body of a district consists of five (5) supervisors as follows:

(1) Two (2) who are appointed.

(2) Three (3) who are elected.

(b) To hold the position of elected supervisor, an individual:

(1) must be an occupier of a tract of land that is:

(A) more than ten (10) acres in area; and

(B) located within the district;

(2) must maintain the individual's permanent residence within the district; and

(3) must be qualified by training and experience to perform the duties that this article imposes on supervisors.

However, the ten (10) acre requirement may be waived if a district requests a waiver and the waiver is approved by the board.

(c) To hold the position of appointed supervisor, an individual:

(1) must be of voting age;

(2) must maintain the individual's permanent residence within the district; and

(3) must be qualified by training and experience to perform the duties that this article imposes on supervisors.

SECTION 14. IC 14-32-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. ~~(a)~~ The election committee appointed under section 7 of this chapter shall do the following:

(1) Select qualified individuals as prospective nominees to fill any vacancies that exist among the elected supervisors of the district.

(2) Contact and ascertain the willingness and ability of each individual to serve if elected.

(3) Submit the list of nominees with the qualifications for certification and printing of a sample ballot to the board by December 1.

(4) Place the names of the prospective nominees selected under subdivisions (1) and (2) in nomination at the meeting and provide an opportunity for additional nominations to be made from the floor.

(5) After nominations are closed, distribute a ballot to each land occupier present at the meeting.

(6) Collect and count the ballots after each land occupier present at the meeting has had an opportunity to vote.

(7) Report the results of the election to the chairman.

~~(b) The number of prospective nominees selected under subsection (a)(1) must exceed the number of vacancies that exist among the elected supervisors of the district by at least one (1).~~

SECTION 15. IC 14-32-4-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10.5. (a) The board may appoint associate supervisors to assist in performing duties in each district.**

(b) Associate supervisors are nonvoting members of the board and may not hold officer positions on the board.

(c) Associate supervisors may be reimbursed for approved expenses but are not entitled to per diem.

SECTION 16. IC 14-32-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. The supervisors of a district shall do the following:

(1) Provide for the execution of surety bonds for all district employees and officers who are entrusted with money or property.

(2) Provide for the keeping of a full and accurate record of all district proceedings and of all district resolutions and orders issued or adopted.

(3) Provide for an annual audit of the accounts of receipts and disbursements of the district.

(4) Provide a copy of each annual financial statement of the

1 district to the board **not later than March 31.**

2 SECTION 17. IC 14-32-5-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A district
4 constitutes a governmental subdivision of the state and a public body
5 corporate and politic exercising public powers.

6 (b) A district may do the following:

7 (1) Carry out soil erosion and water runoff preventive and control
8 measures within the district, including engineering operations,
9 methods of cultivation, the growing of vegetation, changes in use
10 of land, and the measures listed in IC 14-32-1-1(7) and
11 IC 14-32-1-1(8), on the following:

12 (A) Land owned or controlled by the state with the consent
13 and cooperation of the agency administering and having
14 jurisdiction of the land.

15 (B) Any other land within the district upon obtaining the
16 consent of the occupier of the land or the necessary rights or
17 interests in the land.

18 (2) Construct, improve, operate, and maintain the structures that
19 are necessary or convenient for the performance of any of the
20 operations authorized in this article.

21 (3) Cooperate or enter into agreements with, and within the limits
22 of appropriations made available to the district by law to furnish
23 financial or other aid to, a federal, state, or other agency or an
24 occupier of land within the district in the carrying on of
25 conservation operations within the district, subject to the
26 conditions that the supervisors consider necessary to advance the
27 purpose of this article.

28 (4) Obtain options upon and acquire, by purchase, exchange,
29 lease, gift, grant, bequest, devise, or otherwise, real or personal
30 property or rights or interests in property.

31 (5) Maintain, administer, and improve property acquired, receive
32 income from the property, and expend the income in carrying out
33 this article.

34 (6) Sell, lease, or otherwise dispose of property or interests in
35 property in furtherance of this article.

36 (7) Make available to land occupiers within the district, on terms
37 that the district prescribes:

38 (A) agricultural and engineering machinery and equipment;

39 (B) fertilizer;

40 (C) seeds;

41 (D) seedlings;

42 (E) other material or equipment; and

43 (F) services from the district;

44 that will assist in conserving the soil and water resources of the
45 land occupiers.

46 (8) Develop or participate in the development of comprehensive
47 plans for the proper management of soil and water resources
48 within the district that specify the acts, procedures, performances,

- 1 and avoidances necessary or desirable for the effectuation of the
2 plans.
- 3 (9) Publish plans and information developed under subdivision
4 (8) and bring the plans and information to the attention of land
5 occupiers within the district.
- 6 (10) Take over, with the consent of the United States or the state,
7 by purchase, lease, or otherwise, and administer any soil and
8 water conservation, erosion control, water quality protection, or
9 flood prevention project of the entity located within the district's
10 boundaries.
- 11 (11) Manage, as agent of the United States or the state, any soil
12 and water conservation, erosion control, water quality protection,
13 flood prevention, or outdoor recreation project within the
14 district's boundaries.
- 15 (12) Act as agent for the United States or the state in connection
16 with the acquisition, construction, operation, or administration of
17 any soil and water conservation, erosion control, water quality
18 protection, flood prevention, or outdoor recreation project within
19 the district's boundaries.
- 20 (13) Accept donations, gifts, and contributions in money,
21 services, materials, or otherwise from the United States and use
22 or expend the services, materials, or other contributions in
23 carrying on the district's operations.
- 24 (14) Sue and be sued in the name of the district.
- 25 (15) Have perpetual succession unless terminated as provided in
26 this article.
- 27 (16) Make and execute contracts and other instruments necessary
28 or convenient to the exercise of the district's powers.
- 29 (17) Adopt rules and regulations consistent with this article to
30 carry into effect the purposes and powers of this article.
- 31 (18) Require an occupier of land not owned or controlled by the
32 state, as a condition to extending benefits under this article to or
33 the performance of work upon the land, to do either or both of the
34 following:
- 35 (A) Make contributions in money, services, materials, or
36 otherwise to an operation conferring benefits.
- 37 (B) Enter into agreements or covenants concerning the use
38 and treatment of the land that will tend to:
- 39 (i) prevent or control soil erosion;
40 (ii) achieve water conservation and water quality
41 protection; and
42 (iii) reduce flooding;
43 on the land.
- 44 (19) Cooperate with the state in the following:
- 45 (A) Conducting surveys, investigations, and research
46 relating to the character of soil erosion and water losses and
47 the preventive and control measures needed.
- 48 (B) Publishing the results of the surveys, investigations, or

research.

(C) Disseminating information concerning the preventive and control measures.

(D) The management of watersheds.

(20) Cooperate with the state in conducting, within the district, soil and water conservation, erosion control, water quality protection, and flood prevention demonstration projects:

(A) on land owned or controlled by the state with the agency administering and having jurisdiction of the land; and

(B) on any other land upon obtaining the consent of the occupier of the land or the necessary rights or interests in the land.

(21) Serve as the management agency for:

(A) the erosion and sediment part of 33 U.S.C. 1288 (P.L. 92-500, section 208); and

(B) other erosion and sediment reduction programs that affect water quality in each county.

SECTION 18. IC 14-32-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The division of soil conservation:

(1) shall administer and coordinate the duties and responsibilities of the department **of agriculture** under the land resource programs authorized by this chapter; and

(2) in carrying out its duties under subdivision (1), may work in cooperation with the following:

(A) Federal and state agencies.

(B) Local governmental agencies involved in land use planning and zoning.

(C) Any person, firm, institution, or agency, public or private, having an interest in land conservation.

(b) The department **of agriculture** may employ the personnel and provide facilities and services that are necessary to carry out the ~~department's~~ **department of agriculture's** duties and responsibilities under this chapter.

(c) The department of agriculture shall prepare an annual report of the division of soil conservation's expenditures and accomplishments and that contains a proposed business plan.

SECTION 19. IC 14-32-7-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.5. (a) As used in this section, "soil survey" means a systematic scientific identification, inventory, and mapping of the soils of a given area that sets forth the capabilities, potential, and limitations of the soils in the satisfaction of human needs.

(b) The department **of agriculture** shall use the money appropriated by the general assembly to implement and supplement a program of modern soil surveys **and geographic information systems (GIS)** for Indiana that will, within the shortest practicable time, provide a modern soil survey **and geographic information system** for each

1 county as an essential tool in land conservation.

2 SECTION 20. IC 14-32-7-12 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) As used in this
4 section, "river" includes streams and the tributaries of rivers.

5 (b) The division of soil conservation shall do the following:

6 (1) Perform all administrative duties required by the rules of the
7 board.

8 (2) Provide professional assistance to districts in planning,
9 coordinating, and training for the following:

10 (A) Adult soil and water conservation education.

11 (B) Natural resources conservation information programs
12 for elementary and secondary schools.

13 **(C) Supervisors and staff.**

14 (3) Provide professional soil conservation technical assistance to
15 districts.

16 (4) Provide nonagricultural soils interpretive and erosion control
17 expertise on a regional basis.

18 (5) Assist the districts and other federal, state, and local entities
19 in encouraging and monitoring compliance with those aspects of
20 the programs that are related to erosion and sediment reduction.

21 (6) Administer a cost share program for installation of erosion
22 control structural measures on severely eroding cropland and for
23 conversion of highly erodible land from crop production to
24 permanent vegetative cover.

25 (7) Administer a lake and river enhancement program to do the
26 following:

27 (A) Control sediment and associated nutrient inflow into
28 lakes and rivers.

29 (B) Accomplish actions that will forestall or reverse the
30 impact of that inflow and enhance the continued use of
31 Indiana's lakes and rivers.

32 **(8) Provide professional assistance to districts in**
33 **conservation needs assessments, program development, and**
34 **program evaluation.**

35 SECTION 21. IC 14-32-8-5 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The purpose of the
37 program is to provide financial assistance to:

38 **(1) soil and water conservation districts;**

39 ~~(1)~~ **(2) land occupiers; and**

40 ~~(2)~~ **(3) conservation groups;**

41 to implement conservation practices to reduce nonpoint sources of water
42 pollution through education, technical assistance, training, and cost
43 sharing programs.

44 SECTION 22. IC 14-32-8-7 IS AMENDED TO READ AS
45 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. Money in the fund
46 may be spent in the following ways:

47 (1) To increase district technical assistance in local conservation
48 efforts.

(2) To develop an environmental stewardship program to assist land occupiers in complying with environmental regulations voluntarily.

(3) To qualify for federal matching funds for county soil survey computerization.

(4) To provide for the following cost sharing programs:

(A) A program to encourage land occupiers to implement conservation practices to reduce nutrient, pesticide, and sediment runoff.

(B) Programs that encourage land occupiers to implement nutrient management programs by sharing the cost of any of the following:

(i) Fencing for intensive grazing systems.

(ii) Purchasing nutrient management equipment.

(iii) Voluntary environmental audits.

(iv) Other similar expenditures related to nutrient management.

(5) To provide matching grants to districts for the following:

(A) Professional watershed coordinators to facilitate and administer local watershed protection projects.

(B) District managers to administer district conservation policies and programs.

(6) To increase state technical and capacity building assistance to districts and local conservation efforts by providing for the following:

(A) Capacity building specialists to train district personnel in grant writing, grant administration, and leadership development.

(B) Conservation education specialists to help implement district conservation education efforts.

(C) Urban storm water specialists to provide technical assistance to developers to contain soil erosion on construction sites.

(7) To make distributions as provided under section 8 of this chapter.

(8) Implementation of geographic information systems (GIS) or similar technology.

SECTION 23. IC 14-32-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) In addition to funds provided to a district under section 7 of this chapter or from any other source, the division of soil conservation shall pay to the district one dollar (\$1) for every one dollar (\$1) the district receives from a political subdivision.

(b) The state is not obligated to match more than ten thousand dollars (\$10,000) under this section.

(c) In order to receive funding under this section ~~before April 15 of~~ each year, a district must certify to the division of soil conservation the amount of money the district received from all political subdivisions

1 during the one (1) year period beginning January 1 of the previous year.
2 **The information prepared under this subsection must be part of**
3 **the report prepared under IC 14-32-4-22.** The division of soil
4 conservation shall make distributions under this section not later than
5 July 15 of each year.
6 (d) Before making distributions under this section, the division of
7 soil conservation shall determine the total amount of money that has
8 been certified by all districts as having been provided by political
9 subdivisions. If the cumulative amount to be distributed to all districts
10 exceeds the amount appropriated to the fund, the division of soil
11 conservation shall reduce the distribution to each district
12 proportionately.
13 (e) A district must spend money received under this section for the
14 purposes of the district."

15 Renumber all SECTIONS consecutively.
(Reference is to EHB 1138 as printed February 24, 2006.)

Senator NUGENT